



General Assembly

February Session, 2002

***Amendment***

LCO No. 5381

\*SB0047405381SD0\*

Offered by:

SEN. DAILY, 33<sup>rd</sup> Dist.

To: Subst. Senate Bill No. 474

File No. 190

Cal. No. 155

***"AN ACT CONCERNING TAX AUDITS OF CERTAIN  
TELECOMMUNICATIONS SERVICES COMPANIES."***

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 2-90 of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective July 1, 2002*):

5 (a) The Auditors of Public Accounts shall organize the work of their  
6 office in such manner as they deem most economical and efficient and  
7 shall determine the scope and frequency of any audit they conduct.

8 (b) Said auditors, with the Comptroller, shall, at least annually and  
9 as frequently as they deem necessary, audit the books and accounts of  
10 the Treasurer, including, but not limited to, trust funds, as defined in  
11 section 3-13c, and certify the results to the Governor. The auditors  
12 shall, at least annually and as frequently as they deem necessary, audit  
13 the books and accounts of the Comptroller and certify the results to the  
14 Governor. They shall examine and prepare certificates of audit with

15 respect to the financial statements contained in the annual reports of  
16 the Treasurer and Comptroller, which certificates shall be made part of  
17 such annual reports. In carrying out their responsibilities under this  
18 section, said auditors may retain independent auditors to assist them.

19 (c) Said auditors shall audit, on a biennial basis if deemed most  
20 economical and efficient, or as frequently as they deem necessary, the  
21 books and accounts of each officer, department, commission, board  
22 and court of the state government, all institutions supported by the  
23 state and all public and quasi-public bodies, politic and corporate,  
24 created by public or special act of the General Assembly and not  
25 required to be audited or subject to reporting requirements, under the  
26 provisions of chapter 111. Each such audit may include an examination  
27 of performance in order to determine effectiveness in achieving  
28 expressed legislative purposes. The auditors shall report their findings  
29 and recommendations to the Governor, the State Comptroller, the joint  
30 standing committee of the General Assembly having cognizance of  
31 matters relating to appropriations and the budgets of state agencies,  
32 and the Legislative Program Review and Investigations Committee.

33 (d) Within available appropriations, said auditors shall review the  
34 audit reports submitted by municipalities and audited agencies under  
35 the provisions of section 7-393, as amended by this act.

36 [(d)] (e) The Auditors of Public Accounts may enter into such  
37 contractual agreements as may be necessary for the discharge of their  
38 duties. Any audit or report which is prepared by a person, firm or  
39 corporation pursuant to any contract with the Auditors of Public  
40 Accounts shall bear the signature of the person primarily responsible  
41 for the preparation of such audit or report. As used in this subsection,  
42 the term "person" means a natural person.

43 [(e)] (f) If the Auditors of Public Accounts discover, or if it should  
44 come to their knowledge, that any unauthorized, illegal, irregular or  
45 unsafe handling or expenditure of state funds or any breakdown in the  
46 safekeeping of any resources of the state has occurred or is

47 contemplated, they shall forthwith present the facts to the Governor,  
48 the State Comptroller, the clerk of each house of the General Assembly,  
49 the Legislative Program Review and Investigations Committee and the  
50 Attorney General. Any Auditor of Public Accounts neglecting to make  
51 such a report, or any agent of the auditors neglecting to report to the  
52 Auditors of Public Accounts any such matter discovered by him or  
53 coming to his knowledge shall be fined not more than one hundred  
54 dollars or imprisoned not more than six months or both.

55 [(f)] (g) All reports issued or made pursuant to this section shall be  
56 retained in the offices of the Auditors of Public Accounts for a period  
57 of not less than five years. The auditors shall file one copy of each such  
58 report with the State Librarian.

59 [(g)] (h) Each state agency shall keep its accounts in such form and  
60 by such methods as to exhibit the facts required by said auditors and,  
61 the provisions of any other general statute notwithstanding, shall  
62 make all records and accounts available to them or their agents, upon  
63 demand.

64 [(h)] (i) Where there are statutory requirements of confidentiality  
65 with regard to such records and accounts or examinations of  
66 nongovernmental entities which are maintained by a state agency,  
67 such requirements of confidentiality and the penalties for the violation  
68 thereof shall apply to the auditors and to their authorized  
69 representatives in the same manner and to the same extent as such  
70 requirements of confidentiality and penalties apply to such state  
71 agency. In addition, the portion of any audit or report prepared by the  
72 Auditors of Public Accounts that concerns the internal control  
73 structure of a state information system shall not be subject to  
74 disclosure under the Freedom of Information Act, as defined in section  
75 1-200, as amended.

76 Sec. 2. Section 7-391 of the general statutes is repealed and the  
77 following is substituted in lieu thereof (*Effective July 1, 2002*):

78 When used in this chapter, unless the context otherwise requires,

79 the following terms shall have the meanings: [herein specified:] (1)  
80 "Secretary" means the Secretary of the Office of Policy and  
81 Management; (2) "Auditors of Public Accounts" means the Auditors of  
82 Public Accounts appointed pursuant to section 2-90, as amended by  
83 this act; (3) "municipality" includes each town, consolidated town and  
84 city, consolidated town and borough, city and borough; (4) "audited  
85 agency" includes each district, as defined in section 7-324, or other  
86 municipal utility, the Metropolitan District of Hartford County, each  
87 regional planning agency, any other political subdivision of similar  
88 character which is created and any other agency created or designated  
89 by a municipality to act for such municipality whose annual receipts  
90 from all sources exceed two hundred thousand dollars; (5) "reporting  
91 agency" includes each district, as defined in section 7-324, or other  
92 municipal utility, each regional planning agency, any other political  
93 subdivision of similar character which is created and any other agency  
94 created or designated by a municipality to act for such municipality  
95 whose annual receipts from all sources do not exceed two hundred  
96 thousand dollars; (6) "appointing authority" means the legislative body  
97 of a municipality or the board, committee or other governing body of  
98 such audited agency, except in any town where the authority to adopt  
99 a budget rests with a town meeting or a representative town meeting;  
100 (7) "appointing authority" means the board of finance or other board,  
101 committee or body charged with preparing the budget, or in a town  
102 which has no board of finance or other such board, committee or body,  
103 means the board of selectmen or the town council; (8) "audit report"  
104 means the report of the independent auditor and the annual financial  
105 statements of the municipality or audited agency; (9) "independent  
106 auditor" means a public accountant who is licensed to practice in the  
107 state of Connecticut and who meets the independence standards  
108 included in generally accepted government auditing standards; (10)  
109 "public accountant" means an individual who meets standards  
110 included in generally accepted government auditing standards for  
111 personnel performing government audits and the licensing  
112 requirements of the State Board of Accountancy; (11) "receipts" means  
113 amounts accrued or received by a municipality, audited agency or

114 reporting agency and reportable as revenues in accordance with  
115 generally accepted accounting principles; and (12) "municipal utility"  
116 means every Connecticut municipality or department or agency  
117 thereof, or Connecticut district, manufacturing, selling or distributing  
118 gas or electricity to be used for light, heat or power or water.

119 Sec. 3. Section 7-392 of the general statutes is repealed and the  
120 following is substituted in lieu thereof (*Effective July 1, 2002*):

121 (a) All municipalities shall have all their financial statements  
122 audited at least once annually and shall provide for audits in  
123 accordance with the provisions of sections 4-230 to 4-236, inclusive.  
124 Each audited agency, except a local housing authority, shall have all its  
125 accounts audited at least once annually. Such audit shall be made by  
126 an independent auditor, as defined in section 7-391, as amended by  
127 this act, who shall be designated in accordance with the provisions of  
128 section 7-396, as amended by this act. Any independent auditor so  
129 retained to render such an annual or biennial audit shall have his  
130 duties and powers defined by [said secretary] the Secretary of the  
131 Office of Policy and Management. Any audit rendered under the  
132 provisions of this chapter shall be performed in accordance with  
133 standards adopted by the secretary by regulation [and approved by  
134 the Auditors of Public Accounts] adopted in accordance with chapter  
135 54.

136 (b) Notwithstanding the provisions of subsection (a) of this section,  
137 if the charter in any municipality contains provisions applicable with  
138 respect to selection of an independent auditor for purposes of such  
139 audit, such selection shall be conducted in accordance with the charter,  
140 provided such selection shall be subject to approval by the Secretary of  
141 the Office of Policy and Management.

142 (c) In conjunction with each audit of its financial statements, each  
143 town shall provide for the auditing of the financial statements of each  
144 school district operating within its boundaries. In the case of a regional  
145 school district, the regional board of education shall provide for such

146 an audit.

147 (d) The Commissioner of Economic and Community Development  
148 shall provide for the auditing of the financial statements of each local  
149 housing authority at least once biennially. Such audit may be  
150 conducted by an independent auditor or by employees of the  
151 Department of Economic and Community Development, as the  
152 commissioner may determine. The commissioner may charge any  
153 housing authority for the cost of any such audit of its accounts. Upon  
154 completion of any such audit, the commissioner shall file certified  
155 copies of the audit report with the chairman and the executive director  
156 of the housing authority, with the chief executive officer and the clerk  
157 of the municipality in which such housing authority is located, [and]  
158 with the Secretary of the Office of Policy and Management and with  
159 the Auditors of Public Accounts.

160 (e) The treasurer or other officer having authority over the financial  
161 affairs of any reporting agency shall, annually, file a statement  
162 concerning the accounts and finances of such agency with the town  
163 clerk and the board of finance of the town in which such agency is  
164 located. Such statement shall include, but shall not be limited to, a  
165 listing of major disbursements and sources of receipts and shall be  
166 filed not later than ninety days after the end of the fiscal year or period  
167 which is the subject of the statement. Each treasurer or other officer  
168 who fails to file a statement required pursuant to this subsection shall  
169 be fined five hundred dollars for each statement not filed. The fine  
170 shall be levied and collected by the town clerk.

171 Sec. 4. Section 7-393 of the general statutes is repealed and the  
172 following is substituted in lieu thereof (*Effective July 1, 2002*):

173 Upon the completion of an audit, the independent auditor shall file  
174 certified copies of the audit report with (1) the appointing authority,  
175 (2) in the case of a town, city or borough, with the clerk and board of  
176 finance of such town, city or borough, (3) in the case of a regional  
177 school district, with the clerks and boards of finance of the towns, cities

178 or boroughs in which such regional school district is located and with  
179 the board of education, (4) in the case of an audited agency, with the  
180 clerks and boards of finance of the towns, cities or boroughs in which  
181 such audited agency is located, and (5) in each case, with the Secretary  
182 of the Office of Policy and Management and the Auditors of Public  
183 Accounts. Such copies shall be filed within six months from the end of  
184 the fiscal year of the municipality, regional school district or audited  
185 agency, but the secretary may grant an extension of not more than  
186 thirty days, provided the auditor making the audit and the chief  
187 executive officer of the municipality, regional school district or audited  
188 agency shall jointly submit a request in writing to the secretary stating  
189 the reasons for such extension at least thirty days prior to the end of  
190 such six-month period. If the reason for the extension relates to  
191 deficiencies in the accounting system of the municipality, regional  
192 school district or audited agency the request must be accompanied by  
193 a corrective action plan. The secretary may, after a hearing with the  
194 auditor and officials of the municipality, regional school district or  
195 audited agency, grant an additional extension if conditions warrant.  
196 Said auditor shall preserve all of his working papers employed in the  
197 preparation of any such audit until the expiration of three years from  
198 the date of filing a certified copy of the audit with the secretary and the  
199 Auditors of Public Accounts and such working papers shall be  
200 available, upon written request and upon reasonable notice from the  
201 secretary or the Auditors of Public Accounts, during such time for  
202 inspection by the secretary or the Auditors of Public Accounts or [his]  
203 their authorized representative, at the office or place of business of the  
204 auditor, during usual business hours. Any municipality, regional  
205 school district, audited agency or auditor who fails to have the audit  
206 report filed on its behalf within six months from the end of the fiscal  
207 year or within the time granted by the secretary shall be assessed a  
208 civil penalty of not less than one thousand dollars but not more than  
209 ten thousand dollars. The secretary may waive such penalty if, in [his]  
210 the opinion of the secretary, there appears to be reasonable cause for  
211 not having completed or provided the required audit report, provided  
212 an official of the municipality, regional school district or audited

213 agency or the auditor submits a written request for such waiver.

214 Sec. 5. Section 7-394a of the general statutes is repealed and the  
215 following is substituted in lieu thereof (*Effective July 1, 2002*):

216 (a) The audit report prepared by an independent auditor, as defined  
217 in section 7-391, as amended by this act, retained to render an audit for  
218 a municipality, regional school district or audited agency, or by any  
219 fiscal officer of such municipality, regional school district or audited  
220 agency shall be prepared in accordance with generally accepted  
221 accounting principles, generally accepted auditing standards and the  
222 provisions of sections 4-230 to 4-236, inclusive.

223 (b) Any municipality, regional school district or audited agency  
224 may, however, on the basis of unreasonable hardship directly related  
225 to compliance with the provisions of subsection (a) of this section,  
226 request permission to have the audit report prepared in a manner not  
227 in compliance with said provisions by filing such request in writing  
228 with the Secretary of the Office of Policy and Management, including  
229 an explanation of the problems related to such compliance and an  
230 estimate of the time required to implement changes in existing  
231 procedures as necessary to prepare the audit report in accordance with  
232 said provisions. A copy of such request shall be filed with the Auditors  
233 of Public Accounts.

234 (c) The Secretary of the Office of Policy and Management shall  
235 adopt regulations as necessary to establish guidelines concerning  
236 compliance with the provisions of subsection (a) of this section and  
237 concerning any special problems related to such compliance by any  
238 municipality, regional school district or audited agency. Such  
239 regulations shall, prior to adoption, be submitted to the Municipal  
240 Finance Advisory Commission for review as provided in section 7-  
241 394b, as amended by this act.

242 (d) Notwithstanding the provisions of section 7-396a, any  
243 agreement for a grant entered into on or after July 1, 1987, between a  
244 state agency and a municipality, regional school district or audited



245 agency which has adopted the uniform fiscal year pursuant to section  
246 7-382, or any of the agencies of such municipality, shall provide that  
247 any audit of grant expenditures required by such agreement shall be  
248 prepared by the municipality, regional school district or audited  
249 agency, in accordance with this section and section 7-382.

250 Sec. 6. Section 7-394b of the general statutes is repealed and the  
251 following is substituted in lieu thereof (*Effective July 1, 2002*):

252 (a) There is established a Municipal Finance Advisory Commission  
253 which shall (1) review and submit any recommendations as may be  
254 deemed appropriate with respect to any regulations concerning the  
255 provisions of section 7-394a, as amended by this act, submitted by the  
256 Secretary of the Office of Policy and Management for purposes of such  
257 review, and (2) work with any municipality or audited agency referred  
258 to it pursuant to the provisions of section 7-395, as amended by this  
259 act, to improve the fiscal condition of such municipality or audited  
260 agency. Upon receipt of the [secretary's] report of the Auditors of  
261 Public Accounts pursuant to said section 7-395, the commission shall,  
262 in determining the level of financial distress of such municipality or  
263 audited agency, review audits, budgets, accounting and fiscal  
264 management practices and any other information relevant to the  
265 [municipality's] fiscal condition of the municipality or audited agency.  
266 The commission may require the chief executive officer of the  
267 municipality or audited agency to (A) provide such information and  
268 appear before the commission to discuss the financial condition of the  
269 municipality or audited agency and the implementation of remedial  
270 measures to improve its financial condition, and (B) submit a written  
271 report to the commission on implementation of the recommendations  
272 of the commission and other remedial measures. If a chief executive  
273 officer of a municipality or head of an audited agency fails to provide  
274 the information requested or submit the report within thirty days of  
275 the request, the commission may assess a civil penalty of not less than  
276 one thousand but not more than ten thousand dollars on the  
277 municipality or audited agency. If a chief executive officer of a  
278 municipality or head of an audited agency upon whom a penalty has

279 been imposed submits a request, the secretary may waive all or a  
280 portion of such penalty [if he determines] upon determination that a  
281 reasonable cause exists for not having provided the requested  
282 information or report. The secretary may, as a condition of such  
283 waiver, require compliance by a date set by the secretary.

284 (b) Said commission shall consist of eight members appointed by  
285 the Governor as follows: (1) Four members who are fiscal or executive  
286 officers of municipalities or audited agencies, with one such member  
287 from a municipality or audited agency in each of the following  
288 categories of population at the time of such appointment: (A) A  
289 municipality or audited agency with a population under ten thousand,  
290 (B) a municipality or audited agency with a population of at least ten  
291 thousand but under twenty-five thousand, (C) a municipality or  
292 audited agency with a population of at least twenty-five thousand but  
293 under seventy-five thousand, and (D) a municipality or audited  
294 agency with a population of seventy-five thousand or over; (2) three  
295 members who are not officers of municipalities or audited agencies but  
296 whose experience and knowledge, in the discretion of the Governor,  
297 would be valuable for the purposes of said commission, and (3) a  
298 representative from the Office of Policy and Management. Members  
299 shall be appointed for four-year terms coterminous with the term of  
300 the Governor or until a successor is appointed and qualified,  
301 whichever is longer, provided the term of any such member shall be  
302 contingent upon holding the office, when applicable, which qualified  
303 such member for appointment. Vacancies other than by expiration of  
304 terms shall be filled by appointment by the Governor for the unexpired  
305 term. All members of said commission shall serve without  
306 compensation, except for reimbursement for their necessary expenses  
307 incurred in the performance of their duties as members.

308 (c) Repealed by P.A. 83-321, S. 2, 3.

309 Sec. 7. Section 7-395 of the general statutes is repealed and the  
310 following is substituted in lieu thereof (*Effective July 1, 2002*):

311 The [secretary] Auditors of Public Accounts shall review each audit  
312 report filed with [said secretary] the secretary and the Auditors of  
313 Public Accounts as provided in section 7-393, as amended by this act,  
314 except said [secretary] Auditors of Public Accounts shall review the  
315 audit reports on each audited agency biennially or as frequently as  
316 they deem necessary and may review the audit reports on any  
317 municipality or regional school district biennially, [provided such  
318 secretary shall, in any year in which he does not review the report of  
319 any such municipality or regional school district, review the comments  
320 and recommendations of the independent auditor who made such  
321 audit] or as frequently as they deem necessary. If, upon such review of  
322 the audit report, evidence of fraud or embezzlement is found, [he] the  
323 Auditors of Public Accounts shall report such information to the state's  
324 attorney for the judicial district in which such municipality, regional  
325 school district or audited agency is located. If, in the review of such  
326 audit report said [secretary finds] Auditors of Public Accounts find  
327 that such audit (1) has not been prepared in compliance with the  
328 provisions of subsection (a) of section 7-394a, as amended by this act,  
329 [or] (2) said [secretary finds] Auditors of Public Accounts find  
330 evidence of any unsound or irregular financial practice in relation to  
331 commonly accepted standards in municipal finance, or (3) the  
332 Auditors of Public Accounts determine the fiscal conditions indicate  
333 that the municipality or audited agency is in financial distress, said  
334 [secretary] Auditors of Public Accounts shall prepare a report  
335 concerning such finding, including necessary details for proper  
336 evaluation of such finding and recommendations for corrective action  
337 and shall refer such report to the Municipal Finance Advisory  
338 Commission established under section 7-394b, as amended by this act.  
339 A copy of such report shall be filed with: (1) The chief executive officer  
340 of such municipality or audited agency or the superintendent of such  
341 school district and, in the case of a town, city or borough, with the  
342 clerk and board of finance of such town, city or borough; and (2) the  
343 [Auditors of Public Accounts] Secretary of the Office of Policy and  
344 Management.

345       Sec. 8. (NEW) (*Effective July 1, 2002*) Funds appropriated to the  
346       Office of Policy and Management in any fiscal year shall not be  
347       reduced because of the transfer of the authority to review audit reports  
348       under the provisions of section 7-395 of the general statutes, as  
349       amended by this act.

This act shall take effect as follows:	
Section 1	<i>July 1, 2002</i>
Sec. 2	<i>July 1, 2002</i>
Sec. 3	<i>July 1, 2002</i>
Sec. 4	<i>July 1, 2002</i>
Sec. 5	<i>July 1, 2002</i>
Sec. 6	<i>July 1, 2002</i>
Sec. 7	<i>July 1, 2002</i>
Sec. 8	<i>July 1, 2002</i>